

PUBLIC NOTICE

NR06MS.006



**TN DEPT. OF ENVIRONMENT & CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
MINING SECTION
2700 MIDDLEBROOK PIKE SUITE 220
KNOXVILLE TN 37921**

ISSUE DATE 06/26/2006

EXPIRATION DATE 07/28/2006

TO WHOM IT MAY CONCERN: The applications described herein have been submitted for Aquatic Resource Alteration Permits pursuant to *The Tennessee Water Quality Control Act of 1977*, T.C.A. §69-3-108.

The purpose of this notice is to advise all concerned of the proposals for which permits are sought and to solicit comments and information necessary to evaluate the probable impact of the activities upon the respective water resources. The decision whether to issue or deny will in part be based upon that evaluation. All factors that may be relevant to the proposals will be considered.

Persons wishing to comment on or object to the issuance of a proposed permit are invited to submit comments in writing to the address listed above. Written statements received in this office on or before the date of expiration of the comment period, **July 28, 2006**, will become part of the record and will be considered in the determination. The public notice number, applicant's name, permit number and coordinator should be referenced.

Interested persons may also request in writing that the director of the Division hold a public hearing on any application. The request must be filed within the comment period and must indicate the interest of the person requesting it, and the reasons that the hearing is warranted. When there is sufficient public interest, the director shall hold a hearing in accordance with Rule 1200-4-1-.05(3)(G).

After consideration of comments submitted during the public comment period, the hearing record if any, and the requirements of federal and state law, the director of the Division will make determinations regarding the final action on each permit. Permit applications, supporting documentation and related comments are available for review and/or copying.

The public notice includes tentative determinations regarding the issuance, modification, denial or termination of permits for the activities proposed herein.

**DIVISION OF WATER POLLUTION CONTROL
MINING SECTION**

**WATER QUALITY PERMIT
§401 CERTIFICATION/AQUATIC RESOURCE ALTERATION**

PERMIT NUMBER # NR06MS.006

Permit Application Number: ARAP-# NR06MS.006

Applicant: Mr. Jerry E Hackworth, Partner
Plateau Sand
455 Muddy Pond Road
Monterey, Tennessee 338574

Location: Little Piney Creek in Putnam County near Monterey, Tennessee at 36°08'29" latitude, and 86°08'29" longitude on the Obey City, Tennessee 7.5 Minute Series (Topographic) USGS Quadrangle.

Background Information: Plateau Sand has submitted an application for a water withdrawal from Little Piney Creek and a stream crossing of Little Piney Creek at the proposed Highway 62 Mine.

Plateau Sand intends to withdraw make-up water for the proposed Highway 62 Mine from an existing 52.56 acre impoundment with an average depth of 12 feet on Little Piney Creek. Make-up water would be pumped from the impoundment with a floating pump at the rate of 500 gallons per minute (\approx 300,000 gallons per 10hr. day) to Sediment Pond No. 3.

Little Piney Creek meets the criteria for classification as high quality waters. The Obey Crayfish (*Cambarus obeyensis*) has been collected in Little Piney Creek within one-mile of the proposed facility. The Obey Crayfish is listed as a threatened species by the Tennessee Wildlife Resources Agency. The Obey Crayfish type habitat is restricted to headwater tributaries of the East Fork Obey River. The Obscure Beaked Rush (*Rhynchospora perplexa*) has been collected in a wetland within a one-mile radius of the proposed facility. The Division of Natural Heritage lists the Obscure Beaked Rush as a threatened species. The applicant indicates that the wetland where the Obscure Beaked Rush is recorded to occur is to be avoided. The applicant has submitted correspondence indicating that in the applicant's opinion the activities associated with Plateau Sand, Highway 62 Mine will not result in the degradation of the listed species or their habitat.

The Division's review of the permit application has determined that the scope of the project does not meet conditions for coverage under a general permit.

Project Description ARAP-# NR06MS.006: Plateau Sand has applied for an Individual Aquatic Resource Alteration Permit for a water withdrawal from an existing 52.56 acre impoundment on Little Piney Creek.

- The permit application proposes to withdraw make-up water for the proposed Plateau Sand, Highway 62 Mine from an existing 52.56 acre impoundment on Little Piney Creek. Make-up water would be pumped from the impoundment with a floating pump at the rate of 500 gallons per minute to Sediment Pond No. 3. Sediment Pond No. 3 will have a volume of approximately 3,276,240 gallons (≈ 10 acre feet). Wash water is to be circulated through a series of four sedimentation basins to Sediment Pond No. 3 for reuse.
- Process water will be pumped from Sediment Pond No. 3 at the rate of 5000 GPM and recirculated through the sand processing facility in a closed loop system. Approximately 550GPM water will be retained in the product during processing. Processing at the plant is 10 hours a day, 4 days a week.
- The application gives an estimated size of the Little Piney Creek impoundment as 52.56 acres with an average depth of 12 feet. This is the equivalent to a volume of 630.72 acre-feet. The impoundment would have to lose 4.38 acre-feet to lower the water level 1 inch assuming a condition of no flow into or out of the impoundment. The applicant proposes to withdraw approximately 300,000 gallons per day (0.92 acre-feet). Less than 1 percent ($\approx 0.69\%$) of the impoundment's volume will be withdrawn per week for make up water.
- The application proposes establishing a graduated staff gauge at the spillway of the existing 52.56 acre impoundment and the spillway of a smaller existing impoundment upstream of the proposed crossing. Gauge measurements would be taken three times per week and recorded in a logbook. Quarterly reports of the data collected are to be provided to the Division's Mining Section in Knoxville.
- A gravity decant device consisting of a 1-inch pipe through the dam of the 52.56 acre impoundment will be installed. This device is to maintain a minimum flow of 10 gallons per minute in Little Piney Creek when there is no discharge from the spillway of the large impoundment and there is 10 GPM flow or less from the small impoundment upstream.
- No withdrawal is to occur if the water level of the 52.56 acre impoundment drops 48" below the spillway.
- A stream crossing of Little Piney Creek between the 52.56 acre impoundment and the smaller upstream impoundment is proposed. The crossing will encapsulate approximately 110 feet of stream length in a 48 inch corrugated metal pipe. The stream crossing will provide access to the sand processing facility.

Tentative Determination: The Division proposes to issue a conditional permit.

Permit Coordinator: Dave Turner

Mining Section
Division of Water Pollution Control
2700 Middlebrook Pike
Suite 220
Knoxville, TN 37921

Aquatic Resource Alteration Permit Conditions

1. All work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.
3. Activities that result in the alteration to "waters of the state" other than the reaches specified in the approved plans and permit require prior authorization under a separate Aquatic Resource Alteration Permit.
4. A copy of the permit and approved plans must be kept on site during all construction phases of the activity covered.
5. Drainage and erosion controls must be in place prior to commencing construction activities.
6. Flow at the graduated staff gauges must be measured and the results recorded in the logbook prior to each withdrawal of make-up water from the 52.56 acre impoundment. The begin time and end time of each withdrawal must be recorded in the logbook.
7. Withdrawals are to be limited to 10-hours total in any 24-hour period and no more than five days during any week. No withdrawals are permitted when no surface flow conditions are observed at the staff gauge located at the spillway of small upstream impoundment and there is no flow through the gravity decant pipe of the larger impoundment.
8. If flow at the staff gauge located at the spillway of small upstream impoundment is greater than 10 GPM then 52.56 acre impoundment must be discharging through the spillway before a withdrawal can occur.

9. Quarterly withdrawal reports must indicate the duration of each withdrawal, water level in the impoundment, discharge measurements from both impoundments and if the decant pipe is discharging.
10. Plateau Sand must conduct an annual biological survey of Little Piney Creek between February 1, and April 30, at latitude N36.13510, longitude -W85.12503. The biological survey must follow the semi-quantitative riffle kick protocols specified in the *State of Tennessee SOP for Macroinvertebrate Stream Surveys*, March 2002, Revised November 2003.

State of Tennessee Antidegradation Policy

Tennessee's Antidegradation Statement is found in Chapter 1200-4-3-.06 of the *Rules of the Tennessee Department of Environment and Conservation*. The primary purpose of the antidegradation policy is to establish a greater level of protection for those waters that are identified to be of high quality. Some high-quality waters are in near-pristine condition. Others are determined to be high quality due to specialized uses and/or unique features.

Generally, there are two types of high-quality waters. Outstanding National Resource Waters (ONRWs), or Tier 3 waters, are specifically designated by the Water Quality Control Board and are afforded the greatest level of protection. No new discharges or expansion of existing discharges are allowed to result in degradation of the existing water quality.

Other high-quality waters are identified by the Department as Tier 2 waters and are also protected against degradation. Some degradation may be allowed only if the Water Quality Control Board deems it economically and socially necessary. Other surface waters not specifically identified and/or designated as high quality are referred to as Tier 1 waters. Tennessee's Water Quality Standards must be achieved and/or maintained in these waters.

This permit does not obviate requirements of other federal, state or local laws.

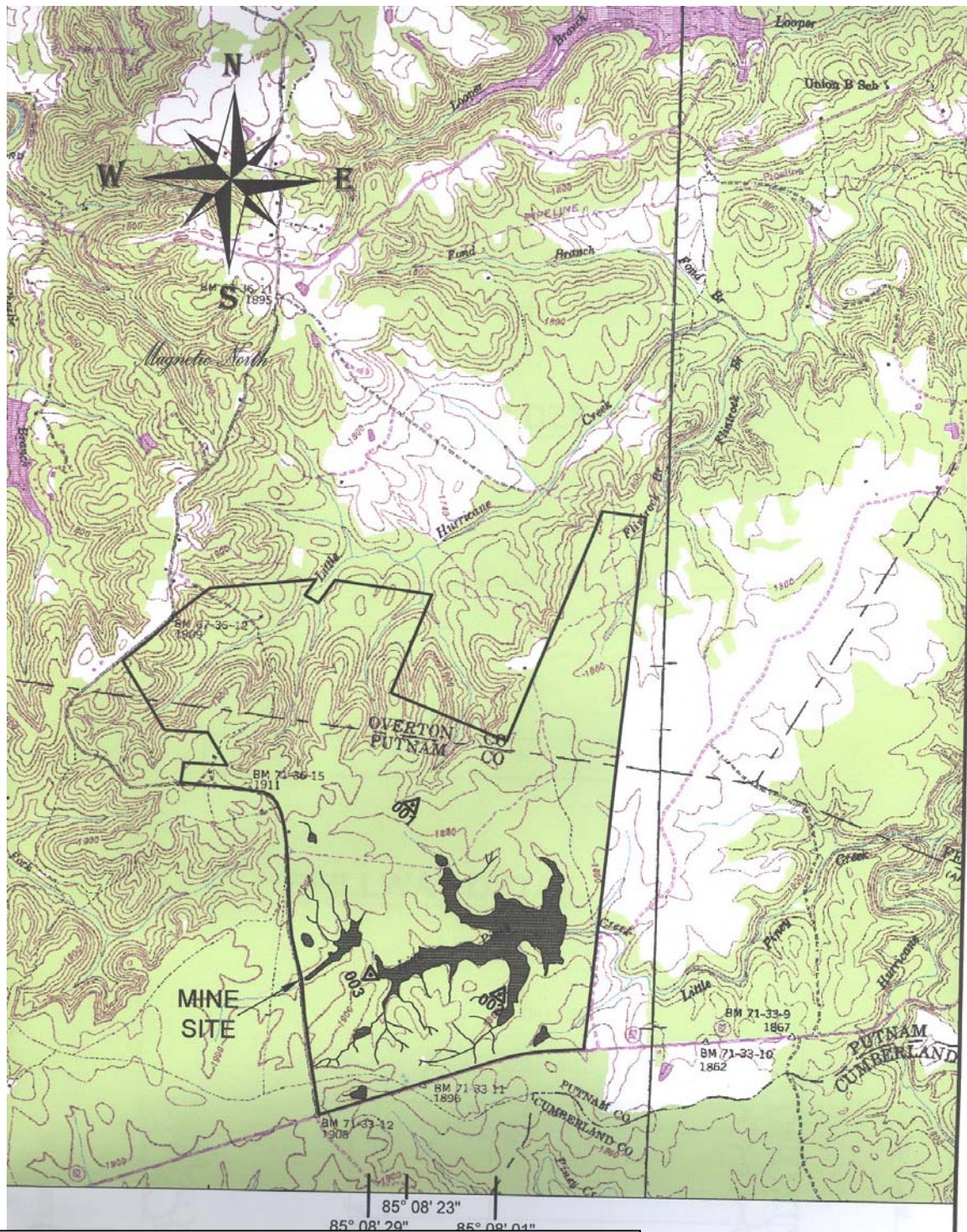
The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty days

after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et. seq. Questions concerning this certification should be addressed to Dave Turner at 865-594-5541 or Dan Murray at 865-594-5549.

Paul E. Davis, Director
Division of Water Pollution Control

Date



Site Location Map

Plateau Sand, Highway 62 Mine

ARAP Application # NR06MS.006

Notice of Determination of “No Degradation”

**Plateau Sand, Highway 62 Mine
Water Withdrawal
Permit Application Number: ARAP-# NR06MS.006**

June 26, 2006

Under the *Tennessee Antidegradation Statement*, where reasonable alternatives to the degradation of a high quality tier 2 stream are not feasible, applicants may ask the Department to determine that any proposed degradation is justified on the basis of social or economic necessity. The applicant has the burden of establishing to the Department that a change is justifiable as a result of necessary economic or social development and will not interfere with or become injurious to any classified uses existing in such waters.

The proposed water withdrawal described in the accompanying public notice takes place from an existing impoundment located in high quality Tier 2 waters. The proposed water withdrawal is from a 52.56-acre impoundment located on the stream. The proposed withdrawal is for less than one percent of the impoundment's estimated volume per week.

After reviewing the information provided by the applicant that was submitted in accordance with *Rule 1200-4-3-.06*, the Division determined that degradation to high quality Tier 2 waters will not occur as long as appropriate pollution controls are in place and permit conditions are met.